

110TH CONGRESS  
1ST SESSION

# H. R. 3440

To amend title I of the Omnibus Crime Control and Safe Streets Act of 1968 to provide standards and procedures to guide both State and local law enforcement agencies and law enforcement officers during internal investigations, interrogation of law enforcement officers, and administrative disciplinary hearings, to ensure accountability of law enforcement officers, to guarantee the due process rights of law enforcement officers, and to require States to enact law enforcement discipline, accountability, and due process laws.

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## IN THE HOUSE OF REPRESENTATIVES

AUGUST 3, 2007

Ms. LINDA T. SÁNCHEZ of California (for herself, Mr. ABERCROMBIE, Mr. BERMAN, Mr. CARDOZA, Mr. DOGGETT, Mr. FILNER, Ms. ZOE LOFGREN of California, Mrs. NAPOLITANO, Mr. ORTIZ, Mr. PASTOR, Mr. POE, and Mr. WEXLER) introduced the following bill; which was referred to the Committee on the Judiciary

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## A BILL

To amend title I of the Omnibus Crime Control and Safe Streets Act of 1968 to provide standards and procedures to guide both State and local law enforcement agencies and law enforcement officers during internal investigations, interrogation of law enforcement officers, and administrative disciplinary hearings, to ensure accountability of law enforcement officers, to guarantee the due process rights of law enforcement officers, and to require States to enact law enforcement discipline, accountability, and due process laws.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Law Enforcement Offi-  
5       cers Procedural Bill of Rights Act of 2007”.

6       **SEC. 2. FINDINGS; DECLARATION OF POLICY.**

7       (a) FINDINGS.—Congress finds that—

8               (1) a significant lack of due process rights of  
9       law enforcement officers during internal investiga-  
10      tions and disciplinary proceedings has resulted in a  
11      loss of confidence in these processes by many law  
12      enforcement officers, including those unfairly tar-  
13      geted for their labor organization activities or for  
14      their legitimate enforcement of the laws, demor-  
15      alizing many rank and file officers in communities  
16      and States;

17              (2) unfair treatment of officers has potentially  
18      serious long-term consequences for law enforcement  
19      by potentially deterring or otherwise preventing offi-  
20      cers from carrying out their duties and responsibil-  
21      ities to the public effectively and fairly in relation to  
22      local law enforcement and homeland security;

23              (3) in light of Congressional authorization of  
24      local law enforcement officers to act across State  
25      lines for Homeland Security purposes during emer-

1 agencies, and in connection with mutual aid agree-  
2 ments among the States, there is a need to provide  
3 stability and continuity in policing operations and  
4 safeguard the rights and protections of law enforce-  
5 ment officers who may be called upon to act beyond  
6 their local jurisdictions;

7 (4) the lack of labor-management cooperation  
8 in disciplinary matters and either the perception or  
9 the actuality that officers are not treated fairly det-  
10 rimentally impacts the recruitment of and retention  
11 of effective officers, as potential officers and experi-  
12 enced officers seek other careers which has serious  
13 implications and repercussions for officer morale,  
14 public safety, and labor-management relations and  
15 strife and can affect interstate and intrastate com-  
16 merce, interfering with the normal flow of com-  
17 merce;

18 (5) there are serious implications for the public  
19 safety of the citizens and residents of the United  
20 States which threaten the domestic tranquility of the  
21 United States because of a lack of statutory protec-  
22 tions to ensure—

23 (A) the due process rights of law enforce-  
24 ment officers;

1 (B) fair, thorough, and timely internal in-  
2 vestigations and interrogations of and discipli-  
3 nary proceedings against law enforcement offi-  
4 cers; and

5 (C) effective procedures for receipt, review,  
6 and investigation of complaints against officers,  
7 fair to both officers and complainants; and

8 (6) resolving these disputes and problems and  
9 preventing the disruption of vital police services is  
10 essential to the well-being of the United States and  
11 the domestic tranquility of the Nation.

12 (b) DECLARATION OF POLICY.—Congress declares  
13 that it is the purpose of this Act and the policy of the  
14 United States to—

15 (1) protect the due process rights of State and  
16 local law enforcement officers and ensure equality  
17 and fairness of treatment among such officers;

18 (2) provide continued police protection to the  
19 general public;

20 (3) provide for the general welfare and ensure  
21 domestic tranquility; and

22 (4) prevent any impediments to the free flow of  
23 commerce, under the rights guaranteed under the  
24 United States Constitution and Congress' authority  
25 thereunder.

1 **SEC. 3. DISCIPLINE, ACCOUNTABILITY, AND DUE PROCESS**

2 **RIGHTS OF OFFICERS.**

3 Part H of title I of the Omnibus Crime Control and  
4 Safe Streets Act of 1968 (42 U.S.C. 3782 et seq.) is  
5 amended by adding at the end the following new section:

6 **“SEC. 820. DISCIPLINE, ACCOUNTABILITY, AND DUE PROC-**  
7 **ESS RIGHTS OF STATE AND LOCAL LAW EN-**  
8 **FORCEMENT OFFICERS.**

9 “(a) DEFINITIONS.—In this section:

10 “(1) DISCIPLINARY ACTION.—The term ‘dis-  
11 ciplinary action’ means any adverse personnel action  
12 taken against a law enforcement officer in response  
13 to a suspected violation of any personnel rule, regu-  
14 lation, policy, procedure, or directive by such officer,  
15 and shall include suspension, reduction in pay, rank,  
16 or other employment benefit, dismissal, transfer, re-  
17 assignment, unreasonable denial of secondary em-  
18 ployment, denial of promotion, or unpaid leave from  
19 employment.

20 “(2) DISCIPLINARY HEARING.—The term ‘dis-  
21 ciplinary hearing’ means an administrative hearing  
22 initiated by a law enforcement agency against a law  
23 enforcement officer which may result in disciplinary  
24 action.

25 “(3) INVESTIGATION.—The term ‘investiga-  
26 tion’—

1           “(A) means an action taken to determine  
2           whether a law enforcement officer violated a  
3           rule, regulation, policy, procedure, or directive  
4           of a public agency; and

5           “(B) includes—

6                   “(i) asking questions of any other law  
7                   enforcement officer or non-law enforcement  
8                   officer (directly related to the actions for  
9                   which the officer is being investigated);

10                   “(ii) conducting observations;

11                   “(iii) seizing property;

12                   “(iv) reviewing and evaluating reports,  
13                   records, or other documents; and

14                   “(v) examining physical evidence.

15           “(4) LAW ENFORCEMENT OFFICER.—The terms  
16           ‘law enforcement officer’ and ‘officer’ have the  
17           meaning given the term ‘law enforcement officer’ in  
18           section 1204, except that the term does not include  
19           a law enforcement officer employed by the United  
20           States, or any department, agency, or instrumen-  
21           tality thereof.

22           “(5) PERSONNEL RECORD.—The term ‘per-  
23           sonnel record’ means any document or file, whether  
24           in written or electronic form and irrespective of loca-  
25           tion, that has been or may be used in determining

1 the qualifications of a law enforcement officer for  
2 employment, evaluation, promotion, transfer, addi-  
3 tional compensation, termination, or any disciplinary  
4 action.

5 “(6) PUBLIC AGENCY AND LAW ENFORCEMENT  
6 AGENCY.—The terms ‘public agency’ and ‘law en-  
7 forcement agency’ each have the meaning given the  
8 term ‘public agency’ in section 1204, except that the  
9 terms do not include the United States, or any de-  
10 partment, agency, or instrumentality thereof.

11 “(7) LIE DETECTOR.—The term ‘lie detector’  
12 means a polygraph, deceptograph, voice stress ana-  
13 lyzer, psychological stress evaluator, or any other  
14 similar device, whether mechanical or electrical, that  
15 is used, or the results of which are used, for the pur-  
16 pose of rendering a diagnostic opinion regarding the  
17 honesty or dishonesty of an individual.

18 “(b) APPLICABILITY.—

19 “(1) IN GENERAL.—This section sets forth the  
20 due process rights, including procedures, that shall  
21 be afforded a law enforcement officer who is the  
22 subject of an investigation or disciplinary hearing.

23 “(2) NONAPPLICABILITY.—This section does  
24 not apply in the case of—

1           “(A) an investigation of specifically alleged  
 2           conduct by a law enforcement officer that, if  
 3           proven, would constitute a violation of a statute  
 4           providing for criminal penalties; or

5           “(B) a non-disciplinary action taken in  
 6           good faith on the basis of the employment-re-  
 7           lated performance of law enforcement officers,  
 8           and those serving in a law enforcement capacity  
 9           holding an elected or appointed office.

10       “(c) EFFECTIVE PROCEDURES FOR RECEIPT, RE-  
 11       VIEW, AND INVESTIGATION OF COMPLAINTS AGAINST  
 12       LAW ENFORCEMENT OFFICERS.—Not later than 1 year  
 13       after the effective date of the Law Enforcement Officers  
 14       Procedural Bill of Rights Act of 2007, each law enforce-  
 15       ment agency shall adopt and comply with a written com-  
 16       plaint procedure that—

17           “(1) authorizes persons from within and outside  
 18       the law enforcement agency to submit written com-  
 19       plaints about a law enforcement officer to—

20           “(A) the law enforcement agency employ-  
 21       ing the law enforcement officer; or

22           “(B) any other law enforcement agency  
 23       charged with investigating such complaints;

24           “(2) sets forth the procedures for the investiga-  
 25       tion and disposition of such complaints;



1           “(3) provides for public access to required  
2 forms and other information concerning the submis-  
3 sion and disposition of written complaints; and

4           “(4) requires notification to the complainant in  
5 writing of the final disposition of the complaint and  
6 the reasons for such disposition.

7           “(d) INITIATION OF AN INVESTIGATION.—

8           “(1) IN GENERAL.—An investigation based on a  
9 complaint from within or outside the law enforce-  
10 ment agency shall commence not later than 15 days  
11 after the receipt of the complaint by—

12           “(A) the law enforcement agency employ-  
13 ing the law enforcement officer against whom  
14 the complaint has been made; or

15           “(B) any other law enforcement agency  
16 charged with investigating such a complaint.

17           “(2) INTERROGATIONS; CONDITIONS.—When  
18 any law enforcement officer is under investigation  
19 and subjected to interrogation by his or her com-  
20 manding officer, or any other member of the employ-  
21 ing law enforcement department, that could lead to  
22 disciplinary action, the interrogation shall be con-  
23 ducted under the following conditions:

24           “(A) The interrogation shall be conducted  
25 at a reasonable hour, preferably at a time when

1 the law enforcement officer is on duty, or dur-  
2 ing the normal waking hours for the law en-  
3 forcement officer, unless the seriousness of the  
4 investigation requires otherwise. If the interro-  
5 gation does occur during off-duty time of the  
6 law enforcement officer being interrogated, the  
7 law enforcement officer shall be compensated  
8 for any such off-duty time in accordance with  
9 regular department procedures.

10 “(B) The law enforcement officer under in-  
11 vestigation shall be informed prior to the inter-  
12 rogation of the rank, name, and command of  
13 the officer in charge of the interrogation, the  
14 interrogating officers, and all other persons to  
15 be present during the interrogation. All ques-  
16 tions directed to the law enforcement officer  
17 under interrogation shall be asked by and  
18 through no more than two interrogators at one  
19 time. The law enforcement officer under inves-  
20 tigation shall be informed of the nature of the  
21 investigation no less than 24 hours prior to any  
22 interrogation.

23 “(C) The interrogation session shall be for  
24 a reasonable period of time, taking into consid-  
25 eration the gravity and complexity of the issue

1           being investigated. The officer under interroga-  
2           tion shall be allowed to attend to his or her own  
3           personal physical necessities.

4           “(D) The law enforcement officer under in-  
5           terrogation shall not be subjected to offensive  
6           language or threatened with disciplinary action,  
7           except that an officer refusing to respond to  
8           questions or submit to interrogations shall be  
9           informed that failure to answer questions di-  
10          rectly related to the investigation or interroga-  
11          tion may result in disciplinary action. No prom-  
12          ise of reward shall be made as an inducement  
13          to answering any question. The employer shall  
14          not cause the law enforcement officer under in-  
15          terrogation to be subjected to visits by the press  
16          or news media without the express consent of  
17          the officer, nor shall the name, home address,  
18          or photograph of the officer be given to the  
19          press or news media without the officer’s ex-  
20          press consent.

21          “(E) No statement made during interroga-  
22          tion by a law enforcement officer under duress,  
23          coercion, or threat shall be admissible in any  
24          subsequent civil proceeding against that officer.

1           “(F) The complete interrogation of a law  
2 enforcement officer may be electronically re-  
3 corded. If a recording is made of the interroga-  
4 tion, the law enforcement officer shall have ac-  
5 cess to review the recording if any further pro-  
6 ceedings are contemplated and prior to any fur-  
7 ther interrogation at a subsequent time. The  
8 law enforcement officer shall be entitled, at no  
9 expense to the law enforcement officer, to a  
10 transcribed copy of any notes made by a ste-  
11 nographer and to any reports or complaints  
12 made by investigators or other persons, except  
13 those which are deemed by the investigating  
14 agency to be confidential. No notes or reports  
15 that are deemed confidential may be entered in  
16 the officer’s personnel file. The law enforcement  
17 officer being interrogated shall have the right to  
18 bring his or her own recording device and  
19 record any and all aspects of the interrogation.

20           “(G) If prior to or during the interrogation  
21 of a law enforcement officer it is deemed that  
22 the officer may be charged with a criminal of-  
23 fense, the officer shall be immediately informed  
24 of his or her constitutional rights, and shall be  
25 entitled to counsel. Disciplinary action based

1 solely on criminal charges shall not be made  
2 final until the criminal investigation of such  
3 charges has been completed, and all court pro-  
4 ceedings are concluded.

5 “(H) Upon the filing of a formal written  
6 statement of charges, or whenever an interroga-  
7 tion focuses on matters that could reasonably  
8 result in disciplinary action against any law en-  
9 forcement officer, that officer, at his or her re-  
10 quest, shall have the right to be represented by  
11 a representative of his or her choice who may  
12 be present at all times during the interrogation.  
13 The representative shall not be a person subject  
14 to the same investigation. The representative  
15 shall not be required to disclose, nor be subject  
16 to any disciplinary action for refusing to dis-  
17 close, any information received from the officer  
18 under investigation for non-criminal matters.  
19 This subparagraph shall not apply to any inter-  
20 rogation of a law enforcement officer in the  
21 normal course of duty, counseling, instruction,  
22 or informal verbal admonishment by, or other  
23 routine or unplanned contact with, a supervisor  
24 or any other law enforcement officer, nor shall  
25 this subparagraph apply to an investigation

1           concerned solely and directly with alleged criminal activities.  
2

3           “(e) SANCTIONS; DISCIPLINARY ACTION.—

4           “(1) No law enforcement officer shall be loaned  
5           or temporarily reassigned to a location or duty assignment if a sworn member of his or her department would not normally be sent to that location or  
6           would not normally be given that duty assignment  
7           under similar circumstances.  
8

9           “(2) No law enforcement officer shall be subjected to disciplinary action, denied promotion, or  
10           threatened with any such treatment, because of the  
11           lawful exercise of the rights granted under this section, or the exercise of any rights under any existing  
12           administrative grievance procedure.  
13

14           “(3) Nothing in this subsection shall be construed to create a property interest, where one does  
15           not exist by rule or law, in the job of Chief of Police  
16           or chief administrative officer of a law enforcement  
17           department.  
18

19           “(4)(A) Except as provided in this section, no  
20           disciplinary action or denial of promotion on  
21           grounds other than merit shall be undertaken for  
22           any act, omission, or other allegation of misconduct  
23           if the investigation of the allegation is not completed  
24  
25

1 within one year after the date on which the law en-  
2 forcement department was notified of the allegation  
3 of the act, omission, or other misconduct.

4 “(B) Subparagraph (A) shall only apply with  
5 respect to an investigation in response to an act,  
6 omission, or other misconduct that occurred on or  
7 after the effective date of this section.

8 “(5) In the event that the law enforcement de-  
9 partment determines that disciplinary action may be  
10 taken, the department shall notify the law enforce-  
11 ment officer of any proposed disciplinary action  
12 within 15 days, except in any of the following cir-  
13 cumstances:

14 “(A) If the act, omission, or other allega-  
15 tion of misconduct is also the subject of a  
16 criminal investigation or criminal prosecution,  
17 the time during which the criminal investigation  
18 or criminal prosecution is pending shall be ex-  
19 tended until 30 days after the completion of  
20 such investigation or prosecution.

21 “(B) If the law enforcement officer volun-  
22 tarily waives the 15 day period in writing, the  
23 time period shall be extended for the period of  
24 time specified in the written waiver.

1           “(C) If the investigation is a multi-juris-  
2           dictional investigation that requires a reason-  
3           able extension for coordination of the involved  
4           agencies.

5           “(D) If the law enforcement officer who is  
6           being investigated is incapacitated or is other-  
7           wise unavailable.

8           “(E) If the investigation involves an allega-  
9           tion of workers’ compensation fraud on the part  
10          of the law enforcement officer.

11          “(6) Where a pre-disciplinary response or griev-  
12          ance procedure is required or utilized, the time used  
13          to conduct such a pre-disciplinary response or proce-  
14          dure shall not be governed or limited by this section.

15          “(7) If, after investigation and any pre-discipli-  
16          nary response or procedure, the law enforcement de-  
17          partment decides to take disciplinary action, the law  
18          enforcement department shall notify the law enforce-  
19          ment officer in writing of its decision. Such notifica-  
20          tion shall include the date that the disciplinary ac-  
21          tion will be imposed. Such disciplinary action shall  
22          commence within 30 days of the date of the decision  
23          by the law enforcement department, except in the  
24          case of a law enforcement officer who is unavailable  
25          for disciplinary action.



1 “(f) ADMINISTRATIVE APPEAL.—

2 “(1) A law enforcement officer disciplined  
3 under this section shall have the right to make an  
4 administrative appeal within 30 days after the im-  
5 position of discipline to—

6 “(A) an independent commission, board,  
7 panel, or;

8 “(B) a hearing officer as mutually agreed  
9 to by the law enforcement officer and the law  
10 enforcement department.

11 “(2) Any administrative hearing under this sec-  
12 tion shall follow any applicable evidentiary proce-  
13 dures provided under State law.

14 “(3) Any decision of the commission, board,  
15 panel, or hearing officer shall be for just cause.

16 “(4) No disciplinary action or denial of pro-  
17 motion on grounds other than merit shall be under-  
18 taken by any law enforcement department against  
19 any law enforcement officer who has successfully  
20 completed the probationary period that may be re-  
21 quired by his or her employing agency without pro-  
22 viding the law enforcement officer with an oppor-  
23 tunity for administrative appeal.

24 “(5) No chief administrator of a law enforce-  
25 ment department may be removed by a law enforce-

1       ment department, or appointing authority, without  
2       providing the chief administrative officer with writ-  
3       ten notice of removal, the reason or reasons there-  
4       fore, and an opportunity for administrative appeal.

5       “(g) OFFICER INVOLVED SHOOTINGS.—A law en-  
6       forcement officer is entitled to all constitutional guaran-  
7       tees afforded to any private citizen who is under investiga-  
8       tion for an alleged criminal act.

9       “(h) PERSONNEL FILES.—

10       “(1) Except for administrative purposes and  
11       purposes of departmental evaluation, personnel files  
12       of law enforcement officers shall be sealed. Informa-  
13       tion contained in a law enforcement officer’s per-  
14       sonnel file shall be considered privileged.

15       “(2)(A) Except as provided in subparagraph  
16       (B), no law enforcement officer shall have any com-  
17       ment adverse to his interest entered in his personnel  
18       file, or any other file used for any personnel pur-  
19       poses by his employer, without the law enforcement  
20       officer having first read and signed the instrument  
21       containing the adverse comment, indicating that he  
22       or she is aware of such comment.

23       “(B) If a law enforcement officer refuses to  
24       read or sign an instrument as described in subpara-  
25       graph (A), the officer’s refusal shall be noted in

1 writing on the instrument, the instrument shall be  
2 signed or initialed by another officer who witnessed  
3 the law enforcement officer's refusal, and the instru-  
4 ment shall be entered in the appropriate personnel  
5 or other file.

6 “(3) A law enforcement officer shall have 30  
7 days within which to file a written response to any  
8 adverse comment entered in his personnel file. Such  
9 written response shall be attached to, and shall ac-  
10 company, the adverse comment, and shall be avail-  
11 able for the purpose of any review or possible ap-  
12 peal.

13 “(4) Every law enforcement department shall,  
14 upon the request of a law enforcement officer, per-  
15 mit the officer to inspect personnel files that are  
16 used or have been used to determine the officer's  
17 qualifications for employment, evaluation, pro-  
18 motion, additional compensation, or termination or  
19 other disciplinary action. Such inspection shall be  
20 permitted during usual business hours, with no loss  
21 of compensation to the officer.

22 “(5) Each employer shall keep each law en-  
23 forcement officer's personnel file or a true and cor-  
24 rect copy thereof as long as the officer is still an ac-  
25 tive employee of the employer, and shall make the

1 file or copy thereof available within a twenty-four  
2 hour period of time after a request therefore by the  
3 officer.

4 “(6) If, after a law enforcement officer has ex-  
5 amined his or her personnel file, the officer believes  
6 that any portion of the material is mistakenly or un-  
7 lawfully placed in the file, the officer may request,  
8 in writing, that the mistaken or unlawful portion be  
9 corrected or deleted. Any request made pursuant to  
10 this paragraph shall include a statement by the offi-  
11 cer describing the corrections or deletions requested  
12 and the reasons supporting those corrections or dele-  
13 tions. A statement submitted pursuant to this para-  
14 graph shall become part of the personnel file of the  
15 officer.

16 “(7) Within 30 days after receipt of a request  
17 under paragraph (6), the employer shall either grant  
18 the officer’s request or notify the officer of the deci-  
19 sion to deny the request. If the employer denies the  
20 request, in whole or in part, the employer shall pro-  
21 vide to the officer, in writing, the reasons for deny-  
22 ing the request, and that written statement shall be-  
23 come part of the personnel file of the officer.

24 “(i) LIE DETECTORS.—

1           “(1) No law enforcement officer shall be sub-  
2       jected to a lie detector test as part of an investiga-  
3       tion conducted under this section.

4           “(2) No disciplinary action or other recrimina-  
5       tion shall be taken against a law enforcement officer  
6       for refusing to submit to a lie detector test, nor shall  
7       any comment regarding an officer’s decision to sub-  
8       mit to or refuse such a test be entered in the inves-  
9       tigator’s notes or in any other file or document, nor  
10      shall any testimony or evidence regarding such a de-  
11      cision by an officer be admissible at a subsequent  
12      hearing, trial, or proceeding, whether judicial or ad-  
13      ministrative.

14      “(j) PROTECTION OF PERSONAL RECORDS AND PER-  
15      SONAL PROPERTY.—

16           “(1) No law enforcement officer shall be re-  
17      quired as a condition of employment by his or her  
18      employing law enforcement department or other  
19      public agency to consent to the use of his or her  
20      photograph or identity as a law enforcement officer  
21      on the Internet for any purpose if that officer rea-  
22      sonably believes that the disclosure may result in  
23      threat, harassment, intimidation, or harm to that of-  
24      ficer or his or her family.

1           “(2) For purposes of job assignment or other  
2           personnel action, no law enforcement officer shall be  
3           required or requested to disclose any item of his  
4           property, income, assets, source of income, debts, or  
5           personal or domestic expenditures (including those  
6           of any member of his family or household) unless  
7           such information—

8                   “(A) is obtained or required under State  
9                   law or proper legal procedure;

10                   “(B) tends to indicate a conflict of interest  
11                   with respect to the performance of the officer’s  
12                   official duties; or

13                   “(C) is necessary for the employing agency  
14                   to ascertain the desirability of assigning the law  
15                   enforcement officer to a specialized unit in  
16                   which there is a strong possibility that bribes or  
17                   other improper inducements may be offered.

18           “(3) No law enforcement department shall deny  
19           or refuse to any law enforcement officer the rights  
20           and protections guaranteed to the officer by this sec-  
21           tion.

22           “(k) COURT OF JURISDICTION; JUDICIAL ENFORCE-  
23           MENT.—

24                   “(1) The appropriate State court in the State  
25                   in which a law enforcement department is located

1 shall have original jurisdiction over any proceeding  
2 brought by any law enforcement officer against any  
3 law enforcement department for alleged violations of  
4 this section. Nothing in this subsection shall be con-  
5 strued, by reason of a claim arising under this sec-  
6 tion, to deny to the courts of the United States sup-  
7 plemental jurisdiction over any Federal law claim for  
8 which such courts have jurisdiction under section  
9 1367 of title 28, United States Code, or any other  
10 provision of law.

11 “(2) In any case where the court finds that a  
12 law enforcement department has violated any of the  
13 provisions of this section, the court shall render ap-  
14 propriate injunctive or other extraordinary relief to  
15 remedy the violation and to prevent future violations  
16 of a like or similar nature, including the granting of  
17 a temporary restraining order, preliminary, or per-  
18 manent injunction prohibiting the law enforcement  
19 department from taking any disciplinary action  
20 against the law enforcement officer, attorney fees,  
21 and any other remedies deemed appropriate by the  
22 court.

23 “(3) If the court finds that a bad faith or frivo-  
24 lous denial of rights, or a malicious filing for an im-  
25 proper purpose, has been brought pursuant to this

1 section, the court may order sanctions against the  
2 offending party, the party's attorney, or both. Such  
3 sanctions may include reasonable expenses incurred  
4 by the opposing party (including attorney's fees), as  
5 the court deems appropriate. Nothing in this para-  
6 graph is intended to subject actions or filings under  
7 this section to rules or standards that are different  
8 from those applicable to other civil actions or filings.  
9 Any law enforcement department which has adopted,  
10 through the action of its governing body or its offi-  
11 cial designee, any procedure which provides to law  
12 enforcement officers, at a minimum, the same rights  
13 and protections as provided pursuant to this section  
14 shall not be subject to this section with regard to  
15 such a procedure.

16 “(4) Nothing in this section shall in any way be  
17 construed to limit the use of any public safety agen-  
18 cy or any law enforcement officer in the fulfilling of  
19 mutual aid agreements with other jurisdictions or  
20 agencies, nor shall this section be construed in any  
21 way to limit any jurisdictional or interagency co-  
22 operation under any circumstances where such activ-  
23 ity is deemed necessary or desirable by the jurisdic-  
24 tions or the agencies involved.



1       “(l) ON SCENE INVESTIGATIONS.—During an on-  
2 scene investigation of an officer-involved shooting incident,  
3 the officer who was involved in the shooting and used  
4 deadly force is entitled to attorney representation of the  
5 officer’s choice (within reason) prior to and during inter-  
6 views by investigators. An attorney representing the offi-  
7 cer involved in an officer-involved shooting incident should  
8 have the right, within reason, to counsel the officer at the  
9 scene prior to an interview by an investigator.

10       “(m) LAW ENFORCEMENT AGENCIES RIGHT TO  
11 PROTECT CRIME SCENES.—

12               “(1) Every law enforcement agency is entitled  
13 to protect the integrity of their crime scene inves-  
14 tigation.

15               “(2) A law enforcement agency has the right,  
16 when a law enforcement officer’s attorney is present,  
17 to prohibit the officer and attorney from entering  
18 the actual crime scene so that evidence is not dis-  
19 turbed.

20       “(n) STATES’ RIGHTS.—Nothing in this section may  
21 be construed—

22               “(1) to preempt any State or local law, or any  
23 provision of a State or local law, in effect on the  
24 date of enactment of the Law Enforcement Officers  
25 Procedural Bill of Rights Act of 2007, that confers

1 a right or a protection that is substantially similar  
2 to a right or protection afforded by this section; or  
3 “(2) to prohibit the enactment of any State or  
4 local law that confers a right or protection that is  
5 substantially similar to a right or protection afforded  
6 by this section.

7 “(o) COLLECTIVE BARGAINING AGREEMENTS.—  
8 Nothing in this section shall be construed to—

9 “(1) preempt any provision in a mutually  
10 agreed-upon collective bargaining agreement, in ef-  
11 fect on the date of enactment of the Law Enforce-  
12 ment Officers Procedural Bill of Rights Act of 2007,  
13 that provides for substantially the same or a greater  
14 right or protection than a right or protection af-  
15 forded under this section; or

16 “(2) prohibit the negotiation of any additional  
17 right or protection for an officer who is subject to  
18 any collective bargaining agreement.

19 “(p) PROHIBITION OF FEDERAL CONTROL OVER  
20 STATE AND LOCAL CRIMINAL JUSTICE AGENCIES.—  
21 Nothing in this section shall be construed to authorize any  
22 department, agency, officer, or employee of the United  
23 States to exercise any direction, supervision, or control of

- 1 any law enforcement department or any criminal justice
- 2 agency of any State or any political subdivision thereof.”.

